

## **REMARKS**

### **Introduction**

Claims 11-12, 14, 16-25 are pending in the present application. For at least the reasons set forth below, Applicants submit that the pending claims are in condition for allowance.

### **Amendments**

Claims 11-12, 14, 16-20 and 22 have been amended to further clarify the present invention. Claims 11 and 19 have also been amended to specifically recite limitations previously recited in claims 13 and 15. Claims 13 and 15 have been cancelled. Claims 14, 16 and 22 have been amended to update dependency. Claims 24 and 25 have been added and do not recite any additional subject matter outside of the specification as originally filed, providing for determining if an emergency function should be performed, as described for example in ¶0035 of the present Published Application.

### **Objection to Claims**

Claims 13-15, 19 and 20 are objected to. Claims 13 and 15 are cancelled. Claims 14, 19 and 20 are amended in the spirit of the Examiner's recommendations. As such, Applicants respectfully request withdrawal of the objection as to claims 14, 19 and 20.

### **Rejection of claims 11-23 under 35 U.S.C. §112, ¶1**

Claims 11-23 are rejected under 35 U.S.C. §112, ¶1 based on the claimed language of "arrangement"s. Applicants herein amend independent claims 11 and 19 (similar language in added claims 24 and 25) to indicate that a service element includes a processing device which is adapted to perform the operations. (See, e.g., ¶ 15 of the Published Application). As such, Applicants respectfully request withdrawal of the present rejection.

### **Rejection of Claims 11-12, 17, 19-20 and 23 under 35 U.S.C. §102(e)**

Claims 11-12, 17, 19-20 and 23 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,370,449 (hereinafter referred to as "Razavi"). As discussed in further detail below regarding the rejection of now cancelled claims 13 and 15 and in view

of the amendments to claims 11 and 19 incorporating the limitations of claims 13 and 15, Applicants submit the rejection is improper.

Rejection of claims 13-15 and 18 under 35 U.S.C. §103(a)

Claims 13-15 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Razavi in view of U.S. Patent No. 6,512,968 (hereinafter referred to as “de Bellefeuille”). In view of the above-noted amendments, Applicants will discuss this rejection in view of claims 11 and 19.

In rejecting a claim under 35 U.S.C. §103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091 (Fed. Cir. 1986). Third, the prior art references must teach or suggest all of the claimed limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claims 11 and 19, as amended, recite the limitations of, *inter alia*, “performing an error diagnosis of software running on the other components” and “conducting within the service element, a remote diagnosis of the components of the distributed system.”

In the present Office Action, the Examiner notes, and Applicants agree, that Razavi does not teach or suggest performing an error diagnosis. de Bellefeuille is asserted in view of Razavi’s shortcomings, to which Applicants must respectfully disagree.

de Bellefeuille teaches a computerized automotive servicing component, as may be hooked up to the electrical system of a motor vehicle. (e.g. col. 8, lines 10-21 describing the invention as used in a wheel alignment device). The automotive servicing device is not disposed within the motor vehicle, as recited in claim 11, but rather is manually connected to the vehicle during a servicing operation. Additionally, de Bellefeuille describes on col. 11, lines 19-26 performing an integrity check on software files, but fails to teach or suggest conducting the “remote diagnosis of the other components,” using the embedded service element. Therefore, Applicants submit the rejection is improper as the combination of

Razavi and de Bellefeuille fails to teach or suggest all of the claimed limitations of claims 11 and 18-19 (in view of the cancellation of claims 13 and 15).

Rejection of claim 16 under 35 U.S.C. §103(a)

Claim 16 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Razavi in view of de Bellefeuille and further in view of U.S. Patent No. 6,330,499 (hereinafter referred to as "Chou"). Claim 16 depends from claim 11 and as discussed above, Razavi and de Bellefeuille do not describe or suggest all of the features of claim 11. Additionally, Chou has not been asserted to overcome the deficiencies of the Razavi / de Bellefeuille combination. Therefore, for at least the reasons stated above, Applicants request withdrawal of the present rejection.

Rejection of claim 21 under 35 U.S.C. §103(a)

Claim 21 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Razavi in view of de Bellefeuille and further in view of U.S. Patent No. 5,465,207 (hereinafter referred to as "Boatwright"). Claim 21 depends from claim 14 and as discussed above, Razavi and de Bellefeuille do not describe or suggest all of the features of claim 11. Additionally, Boatwright has not been asserted to overcome the deficiencies of the Razavi / de Bellefeuille combination. Therefore, for at least the reasons stated above, Applicants request withdrawal of the present rejection.

Rejection of claim 22 under 35 U.S.C. §103(a)

Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Razavi in view of de Bellefeuille and further in view of U.S. Patent No. 5,964,813 (hereinafter referred to as "Ishii"). Claim 22 depends from claim 11 and as discussed above, Razavi and de Bellefeuille do not describe or suggest all of the features of claim 11. Additionally, Ishii has not been asserted to overcome the deficiencies of the Razavi / de Bellefeuille combination. Therefore, for at least the reasons stated above, Applicants request withdrawal of the present rejection.

Rejection of claims 11-12, 17, 19-20 and 23 under 35 U.S.C. §103(a)

Claims 11-12, 17, 19-20 and 23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,185,491 (hereinafter referred to as “Gray”) in view of Razavi. As discussed in further detail below regarding the rejection of now cancelled claims 13 and 15 and in view of the amendments to claims 11 and 19 incorporating the limitations of claims 13 and 15, Applicants submit the rejection is improper.

Rejection of claims 13-14 and 18 under 35 U.S.C. §103(a)

Claims 13-14 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gray in view of Razavi and further in view of U.S. Patent No. 6,246,953 (hereinafter referred to as “Buckley”). Applicants submit the rejection is improper because claim 13 now stands cancelled and claims 14 and 18 depends from amended claim 11, which as indicated above has been amended to recite limitations of previously pending claim 15. Therefore, the combination of Gray and Razavi fails to teach or suggest all the limitations of claim 11, further combination with Buckley fails to teach or suggest the limitations of claims 14 and 18.

Rejection of claims 15-16 and 21 under 35 U.S.C. §103(a)

Claims 15-16 and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gray in view of Razavi in view of Buckley and further in view of Chou. In view of the amendment to claims 11 and 19, Applicants will address this rejection as to claims 11 (and 19), 16 and 21. This rejection is improper because the combination of Gray, Razavi, Buckley and Chou fails to teach or suggest all of the claimed limitations.

Claims 11 and 19 provide for a service element and a distributed system including other components that are independent of one another and interconnected by a bus, the service element includes software instructions for: configuring the other components, *upgrading the other components, maintaining the other components, and performing an emergency function.*

In accordance with the example embodiment described in the present application, “the service element of the present invention and the distributed system of the present invention have the advantage that the service element is able to carry out configurations, upgrades, maintenance, and, if necessary, emergency functions on the components of the distributed system.” (See Specification, page 1, lines 22-25).

In contrast, Gray concerns a vehicle control computer system and device interface. A vehicle control center, with a processor and memory, provides user access to devices operating within the vehicle. The manufacturer of the devices provides a device interface stored within the device. When a device is installed in the vehicle, the processor or other control element of the vehicle control center becomes aware of the installation and requests or otherwise receives the stored device interface from the device. The vehicle control center uses the device interface as received or replaces it with a different interface already stored in memory. (Abstract, lines 1-12). Furthermore, Gray states the vehicle control center may be used to control other components including "radar, air bag activation and status, video cameras, emergency rescue, alarms, anti-theft system, odometers, gyroscope, route guidance, access control, location transponder, video games, an internet connection, a digital multimedia broadcasting receiver, telephone receivers, digital video decoders and recorders, a digital audio broadcasting receiver, voice recognition systems, a cellular telephone handset either directly connected or linked via infrared, a digital cell phone module and a gateway to other buses." (Col. 3, lines 52-65).

Accordingly, Gray does not disclose or even suggest the features in which the service element "maintains other components" and "performs an emergency function" in a distributed system, as provided for in the context of claims 11 and 19. Gray merely indicates that when a device is installed in a vehicle, a vehicle control center becomes aware of the installation and requests or otherwise receives a stored device interface from the device such that the vehicle control center uses the device interface as received or replaces it with a different interface already stored in memory. Gray does not describe that the vehicle control center, itself, performs an emergency function. Nothing in Gray discloses or even suggests the claim features of an arrangement for maintaining other components in a distributed system and an arrangement for performing an emergency function, as provided for in the context of claims 11 and 19.

Claims 11 and 19 further recite software instructions for "upgrading the other components" (the other components being a number of independent components of a distributed system). The Office Action asserts this limitation as being disclosed on col. 4, line 65 to col. 5, line 6 of Gray, which refers to the downloading of the most recent version of a manufacturer's device interface from a URL network address. However, such an assertion is clearly wrong because Gray fails to disclose a component that upgrades other independent

components. That is, Gray refers only to a download or firmware upgrade, which is received by a single component of the system but not distributed to the other components. In particular, in Gray the manufacturer's device interface is downloaded only to the vehicle control center and never transferred to any of the other devices. This makes sense because a device would presumably never need an interface to access itself.

In support of the present rejection, the Examiner asserts Razavi for teaching interconnected independent components across an electrical bus and maintain the other components. Applicants must respectfully disagree because Razavi fails to teach or suggest a service element that maintains the other components as claimed herein. Rather, the Examiner-cited passage of Razavi (col. 15, lines 6-13) expressly discloses a service station using a wireless connection to wirelessly simulate a service element, which is inconsistent with the limitation of the service element being "in a motor vehicle" as claimed herein.

Further in support of the present rejection, the Examiner asserts Buckley for performing error diagnosis and determining if the devices are capable of being updated. This fails to overcome the above-noted deficiencies of "upgrading the components" as determining if an upgrade is available and as previously discussed in prior Amendments, an Appeal Brief documents, Buckley does not describe a component that upgrades other independent components in a distributed system. In the sections relied on by the Examiner (col. 10, lines 27-33), Buckley describes upgrading firmware of the CIPN microcomputer via an external device (via an infrared link). This section does not describe a component of a distributed network having the ability to upgrade a number of independent components of the distributed system, as required by claims 11 and 19.

Further in support of the present rejection, the Examiner asserts Chou for remote diagnosis and health monitoring, which also fails to overcome the above-noted deficiencies of Gray, Razavi and/or Buckley.

Therefore, none of Gray, Razavi, Buckley and Chou, alone or in combination, teach or suggest all of the claimed limitations of amended claims 11 and 19, as well as dependent claims 16 and 20. Therefore, Applicants request reconsideration and withdrawal of the present rejection.

Rejection of claim 22 under 35 U.S.C. §103(a)

Claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Gray in view of Razavi and further in view of Buckley and even further in view of U.S. Patent No. 4,866,713 (hereinafter referred to as "Worger"). Claim 22 depends from claim 11 and as discussed above, Gray, Razavi and Buckley do not describe or suggest all of the features of claim 11. Additionally, Boatwright has not been asserted to overcome the deficiencies of the Razavi / de Bellefile combination. Therefore, for at least the reasons stated above, Applicants request withdrawal of the present rejection.

**Conclusion**

In light of the foregoing, Applicants respectfully submit that all of the pending claims 11-12, 14 and 16-25 are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore respectfully requested.

Respectfully submitted,

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Dated: 28 March, 2007

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